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Application Number	09/998,477
Filing Date	November 30, 2001
First Named Inventor	Curtsinger
Art Unit	3724
Examiner Name	Ghassem Alie
Attorney Docket Number	0275Y-000536

Total Number of Pages in This Submission

## ENCLOSURES (check all that apply)

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Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Ryan W. Massey	Reg. No.	38,543
Signature					
Date	October 12, 2004				

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# FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 340

## Complete if Known

Application Number 09/998,477  
Filing Date November 30, 2001  
First Named Inventor Curtsinger  
Examiner Name Ghassem Alie  
Art Unit 3724  
Attorney Docket No. 0275Y-000536

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None  
Order

☒ Deposit Account:

Deposit  
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02-2548

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Black & Decker (U.S.) Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
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## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 0)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
20 **	0	0	0
Independent Claims	3 **	0	0
Multiple Dependent		0	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	340
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
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1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

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SUBTOTAL (3)

(\$ 340)

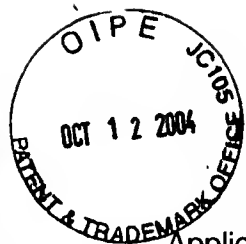
## SUBMITTED BY

Name (Print/Type) Ryan W. Massey Registration No. (Attorney/Agent) 38,543 Telephone 248-641-1600  
Signature *Ryan W. Massey* Date October 12, 2004

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**Appeal No. \_\_\_\_\_**

Application No.: 09/998,477

Filing Date: November 30, 2001

Applicant: Curtsinger

Group Art. Unit: 3724

Examiner: Ghassem Alie

Title: METHOD AND APPARATUS TO PROTECT  
SAW BLADE TIPS

Attorney Docket: 0275Y-000536

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**APPELLANT'S BRIEF**

10/15/2004 CCHAU1 00000014 022548 09998477

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Serial No. 09/998,477

Atty. Ref. 0275Y-000536

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## **BRIEF ON BEHALF OF APPELLANT**

This is an appeal from the action of the Examiner dated June 3, 2004, finally rejecting claims 59-65. Copies of the claims appealed are attached as an appendix.

### **I. REAL PARTY IN INTEREST**

The real party in interest in the present application is Black & Decker Inc. (Assignee).

### **II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### **III. STATUS OF THE CLAIMS**

Claims 59-65 stand finally rejected.

### **IV. STATUS OF AMENDMENTS**

All of the amendments have been entered in this application.

### **V. SUMMARY OF THE INVENTION**

The present invention is directed to a saw blade (item 20, Figs 1 and 3) having a protective cover (item 32, Figs 2 and 3, Para. [0036]). The saw blade (20) has opposite first and second sides, a peripheral edge (26) and a plurality of teeth (28) that extend along a portion of the peripheral edge (26). The cover (32) is made from a heat shrinking

material (para. [0037]) and is shrunk to cover the teeth (28) on the saw blade (20) when heat is applied. The cover (32) has first and second portions (items 34, 36, Fig. 2, Para [0036]) with inner and outer surfaces (38, 40; 42, 44), with the first portion (34) facing the first side of the saw blade (20) and the second portion (36) facing the second surface of the saw blade (20). Portions of the first and second sides of the saw blade and the teeth (28) of the saw blade (20) are disposed between the first and second portions (34,36) of the cover (32). The cover also directly contacts the teeth (28) of the saw blade (20). The first and second portions (34, 36) of the cover form a ring shape with an annular channel between the inner surfaces (38, 42) of the first and second portions (34, 36).

## **VI. ISSUES**

1. Whether the combination of Hill (2010082), Estkowski et al (4696394), and Havens et al (5033253) establish a prima facie case of obviousness under 35 U.S.C. § 103(a), with respect to claims 59-65.

2. Whether the combination of Estkowski et al (4696394), Hill (2010082), and Havens et al (5033253) establish a prima facie case of obviousness under 35 U.S.C. § 103(a), with respect to claims 59-65.

## **VII. GROUPING OF CLAIMS**

Claims 59-65 are pending in this application and are grouped together.

## **VIII. ARGUMENTS**

### **A. THE COMBINATION OF HILL (2010082), ESTKOWSKI ET AL (4696394), AND HAVENS ET AL (5033253) DO NOT RENDER OBVIOUS THE INVENTION OF CLAIMS 59-65**

Applicant respectfully submits that the combination of Hill '082 in view of Estkowski '394 and Havens '253 is improper. In particular, the disclosure of Hill discloses a packaging system for a saw blade in which two cardboard disks D and D' are placed on opposite sides of the saw blade S and the outer perimeter of the disks D, D' are wrapped around the peripheral surface of the saw teeth and including a paper ribbon C, C' extending around the periphery of the disks D and D' which sandwich the saw blade. The ribbon C, C' wrapped around the periphery of the package is disclosed as being cemented (glued) to the disks. (See col. 1, line 11 – 23 and col. 2, lines 2-9 and 14-18.) The disks (D, D') are also disclosed as "having sufficient softness to be indented by the saw teeth without dulling the teeth and being thick enough not to be punctured by the teeth during rough handling." (See col. 1, lines 14-18.) Thus, the disks D and D' provided on opposite sides of the saw blade prevent the paper ribbon from contacting the blade tip.

The disclosure of Estkowski '394 is directed to a protective covering for the tread of a castor wheel. The protective covering is formed as a cylindrical band which is heat shrunk in order to cover the tread of the castor wheel. What is clearly not an issue in the disclosure of Estkowski '394 is the concern for puncturing the protective covering during the shrinking process since the tread of the castor wheel is without sharp edges.

The Examiner further cites the reference of Havens et al '253 and states that "the use of shrinking materials with particular strength to cover or protect sharp edges of tools or objects are well known in the art such as taught by Havens." (See Office Action dated

June 3, 2004, page 4.) The Examiner further states that “Havens teaches a heat shrinking material 7 covers a sharp point 9 of an object 10.” However, Applicant respectfully submits that the disclosure of Havens et al ‘253 is directed to a skin packaging technique which does not involve heat shrinking of the film material. In particular, as stated in the Background of the Invention section, the Havens ‘253 patent states “skin packaging is essentially a vacuum forming process. In a typical process, a sheet of thermoplastic film is placed in a frame, and below the frame is a vacuum plate upon which a piece of support pervious to gasses such as a backing board is placed. The product to be skin packaged is positioned on top of the backing board and heat is applied to the thermoplastic film in the frame. **When the film has been heated to become sufficiently soft**, the frame is lowered and the plastic sheet drapes itself over the product. As this happens, a partial vacuum is created through the vacuum plate, and the air underneath the plastic film is withdrawn through the backing board. The air pressure differential between the top and the bottom of the plastic sheet causes the sheet to be tightly pressed around the product” (see col. 1, lines 16-30, emphasis added). Applicant submits that the skin packaging process of Havens ‘253 although applying heat, does not utilize a heat shrinking material as improperly asserted by the Examiner. Applicant respectfully submits that the disclosure of Havens ‘253 therefore does not properly teach or suggest the use of heat shrinking materials to cover or protect sharp edges such as a saw blade as improperly asserted by the Examiner. In the Advisory Action, the Examiner states that “Havens does not need to teach a head [sic] shrinking material since the head [sic] shrinking material is taught by Hill as modified by Estkowski.” However, none of the references teach or suggest the use of a heat shrinking material in direct contact with the tips of the teeth of a saw blade, as



claimed. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Applicant further notes that the disclosure of Havens et al '253 discloses that the film as disclosed therein "exhibits excellent draw ratios and stretch whereby it is sufficiently deformable so that it can be employed to skin package high profile and/or heavy objects." "By 'high profile,' it is intended to mean objects having a vertical dimension; minimum horizontal dimension ratio of about 20:1 or more, for instance, an essentially cylindrical object having a height of about 20 inches in the direction substantially vertical (i.e., substantially perpendicular) to the support and a base diameter of about one inch (2.5 cm) in the direction substantially horizontal to the support" (see col. 4, lines 19-33). Contrary to the disclosed stretch or draw characteristics of the film of Havens '253, the film of Estkowski is a heat shrinkable film in which the stretch or draw characteristics thereof are irrelevant. In essence the Examiner is improperly combining the technologies of heat shrink wrapping and skin packaging by the combination of Estkowski and Havens. Therefore, Applicant submits that the combination of references is improper and reconsideration and withdrawal of the rejection of claims 59-65 are respectfully requested.

Applicant further submits that there is nothing in the disclosure of Estkowski '394 or Havens '253 to provide proper motivation to combine the teachings of Estkowski '394 or Havens '253 for wrapping a saw blade as disclosed in Hill '082. Applicant submits that the disclosure of Hill '082 includes disks D and D' for isolating the saw blade tips from the ribbons C, C' that extend around the periphery of the package. Thus, the ribbons C, C' of Hill '082 do not directly contact the tips of the saw blade as required by claim 59. There is no proper suggestion in Estkowski '394 or Havens '253 to eliminate the disks D and D' of

Hill for wrapping a saw blade with shrink film to arrive at the present invention as claimed. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Finally, Applicant further submits that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purposes, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Accordingly, Applicant submits that it would be improper to modify the system of Hill '082 to either eliminate the disks D, D' or make the diameter of the disks D, D' smaller so as to expose the saw blade teeth to the shrink wrap of Estkowski '394 since it is the intended purpose of Hill '082 to protect the saw blade tips completely using the disks D and D' having sufficient softness to be indented by the saw teeth without dulling the teeth and being thick enough not to be punctured by the teeth during handling. Therefore, Applicant submits, for these additional reasons, the combination of Hill, Estkowski '394, and Havens '253 is improper and should be withdrawn.

**B. THE COMBINATION OF ESTKOWSKI ET AL (4696394), HILL (2010082), AND HAVENS ET AL (5033253) DO NOT RENDER OBVIOUS THE INVENTION OF CLAIMS 59-65**

Applicant respectfully submits that the combination of Estkowski '394 in view of Hill '082 and Havens '253 is improper. In particular, the disclosure of Estkowski '394 is directed to a protective covering for the tread of a castor wheel. The protective covering is formed as a cylindrical band which is heat shrunk in order to cover the tread of the castor wheel. What is clearly not an issue in the disclosure of Estkowski '394 is the concern for puncturing the protective covering during the shrinking process since the tread of the

castor wheel is without sharp edges. The Examiner acknowledges that Estkowski '394 does not disclose a cover covering a saw blade and does not disclose a heat shrinking material directly contacting the tips of the teeth of a saw blade.

The disclosure of Hill discloses a packaging system for a saw blade in which two cardboard disks D and D' are placed on opposite sides of the saw blade S and the outer perimeter of the disks D, D' are wrapped around the peripheral surface of the saw teeth and including a paper ribbon C, C' extending around the periphery of the disks D and D' which sandwich the saw blade. The ribbon C, C' wrapped around the periphery of the package is disclosed as being cemented (glued) to the disks. (See col. 1, line 11 – 23 and col. 2, lines 2-9 and 14-18.) The disks are also disclosed as "having sufficient softness to be indented by the saw teeth without dulling the teeth and being thick enough not to be punctured by the teeth during rough handling." (See col. 1, lines 14-18.) Thus, the disks D and D' provided on opposite sides of the saw blade prevent the paper ribbon from contacting the blade tip. The Examiner acknowledges that the combination of Estkowski and Hill does not disclose the heat shrinking material contacting the tips of the teeth of a saw blade, as claimed.

The Examiner cites the reference of Havens et al '253 and states that "the use of shrinking materials with particular strength to cover or protect sharp edges of tools or objects are well known in the art such as taught by Havens." The Examiner further states that "Havens teaches a heat shrinking material 7 covers a sharp point 9 of an object 10." However, Applicant respectfully submits that the disclosure of Havens et al '253 is directed to a skin packaging technique which does not involve heat shrinking of the film material. In particular, as stated in the Background of the Invention section, the '253 patent states "skin

packaging is essentially a vacuum forming process. In a typical process, a sheet of thermoplastic film is placed in a frame, and below the frame is a vacuum plate upon which a piece of support pervious to gasses such as a backing board is placed. The product to be skin packaged is positioned on top of the backing board and heat is applied to the thermoplastic film in the frame. When the film has been heated to become sufficiently soft, the frame is lowered and the plastic sheet drapes itself over the product. As this happens, a partial vacuum is created through the vacuum plate, and the air underneath the plastic film is withdrawn through the backing board. The air pressure differential between the top and the bottom of the plastic sheet causes the sheet to be tightly pressed around the product” (see col. 1, lines 16-30). Applicant submits that the skin packaging process of Havens ‘253 although applying heat, does not utilize a heat shrinking material as improperly asserted by the Examiner. Applicant respectfully submits that the disclosure of Havens ‘253 therefore does not properly teach or suggest the use of shrinking materials to cover or protect sharp edges such as a saw blade as improperly asserted by the Examiner. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Applicant further notes that the disclosure of Havens et al ‘253 discloses that the film as disclosed therein “exhibits excellent draw ratios and stretch whereby it is sufficiently deformable so that it can be employed to skin package high profile and/or heavy objects.” “By ‘high profile,’ it is intended to mean objects having a vertical dimension; minimum horizontal dimension ratio of about 20:1 or more, for instance, an essentially cylindrical object having a height of about 20 inches in the direction substantially vertical (i.e., substantially perpendicular) to the support and a base diameter of about one inch (2.5 cm)

in the direction substantially horizontal to the support” (see col. 4, lines 19-33). Contrary to the disclosed stretch or draw characteristics of the film of Havens ‘253, the film of Estkowski is a heat shrinkable film in which the stretch or draw characteristics thereof are irrelevant. In essence the Examiner is improperly combining the technologies of heat shrink wrapping and skin packaging by the combination of Estkowski and Havens. Therefore, Applicant submits that the combination of references is improper and reconsideration and withdrawal of the rejection of claims 59-65 are respectfully requested.

Applicant further submits that there is nothing in the disclosure of Hill ‘082 or Havens ‘253 to provide proper motivation to combine the teachings of Hill ‘082 or Havens ‘253 for using the wrapping technique of Estkowski ‘394. Applicant submits that the disclosure of Hill ‘082 includes disks D and D’ for isolating the saw blade tips from the ribbons C, C’ that extend around the periphery of the package. Thus, the ribbons C, C’ of Hill ‘082 do not directly contact the tips of the saw blade as required by claim 59. There is no proper suggestion in Estkowski ‘394 or Havens ‘253 to eliminate the disks D and D’ of Hill for wrapping a saw blade with shrink film to arrive at the present invention as claimed. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

In view of the above presented discussion, Applicants believe that the pending claim is patentably distinguishable over the art cited by the Examiner. Accordingly, Applicants respectfully request that this Board reverse the final rejection of claims 59-65.

Please charge Deposit Account No. 02-2548 in the amount of \$340 for filing a brief in support of this appeal pursuant to 37 C.F.R. § 1.16 or § 1.17.

Respectfully submitted,

Dated: Oct. 12, 2004

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By: Ryan W. Massey  
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Attorney for Applicants

Enclosures: Three (3) copies of Appellant's Brief

## APPENDIX

59. A saw blade having a protective cover comprising:

a saw blade having opposite first and second sides, a peripheral edge and a plurality of teeth that extend along a portion of said peripheral edge; and

a cover made of a heat shrinking material that shrinks and covers said teeth on said saw blade when heat is applied to said cover, said cover having first and second portions with opposite inner and outer surfaces, said first portion of said cover facing said first side of said saw blade, and said second portion being folded over said first portion with said inner surface of said second portion facing said second side of said saw blade and securing portions of said first and second sides of said saw blade and said teeth between said first and second portions, said heat shrinking material directly contacting tips of said teeth of said saw blade.

60. The saw blade having a protective cover of claim 59, wherein:

said saw blade is generally circular; and

said first portion has a generally circular peripheral edge and said second portion extends from said first portion along said peripheral edge of said first portion.

61. The saw blade having a protective cover of claim 60, wherein:  
said first portion has a central opening that is generally circular.
62. The saw blade having a protective cover of claim 61, wherein:  
said first and second portions form a ring shape with an annular channel  
between said inner surfaces of said first and second portions in which portions of said first  
and second sides and said teeth of said saw blade reside.
63. The saw blade having a protective cover of claim 59, wherein:  
said heat shrinking material is PVC.
64. The saw blade having a protective cover of claim 59, wherein said first  
portion of said cover is disposed against said first side of said saw blade.
65. The saw blade having a protective cover of claim 64, wherein said second  
portion of said cover is disposed against said second side of said saw blade.